

IN
APPEAL

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Applicant: Peter JUNGBLUT et al.

Title: IDENTIFICATION OF SPECIFIC DIFFERENTIALLY
EXPRESSED MYCOBACTERIAL ANTIGENS

Appl. No.: 09/890,339

International Filing Date: 1/28/2000

371(c) Date: 3/12/2002

Examiner: Rodney P. Swartz

Art Unit: 1645

Confirmation Number: 1997

**NOTICE OF APPEAL FROM THE EXAMINER TO THE BOARD
OF PATENT APPEALS AND INTERFERENCES**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants timely filed a response on August 28, 2007, to an Office Action mailed May 29, 2007. All of the remaining issues were addressed in the response and Applicants received a fax from Examiner Swartz on October 23, 2007, providing a courtesy copy of his October 1, 2007, Notice of Allowability. However, despite numerous attempts to receive an official notification from the patent office, no official correspondence has been received by Applicants. In light of the current non-extendable deadline, Applicants are compelled to file this Notice of Appeal in order to keep this matter pending. Applicants believe this action should not be necessary in light of the Examiner's allowance and intend to request a refund for these costs.

11/30/2007 JADDO1 00200004 09890339

01 FC:2401
02 FC:2253255.00 OP
525.00 OP

Applicant hereby appeals to the Board of Patent Appeals and Interferences from the decision of the Examiner in the Final Office Action dated May 29, 2007, finally rejecting Claims 44, 45, 48-57 and 63-68.

Applicant claims small entity status.

Applicant hereby petitions for an extension of time under 37 C.F.R. §1.136(a) for the total number of months checked below:

Notice of Appeal Fee

To be paid as detailed below

Not required (Fee paid in prior appeal)

The required fees are calculated below:

<input checked="" type="checkbox"/>	Notice of Appeal Fee	\$510.00
<input checked="" type="checkbox"/>	Extension for response filed within the third month:	\$1,050.00
<input type="checkbox"/>	Extension:	\$0.00
	FEE TOTAL:	\$1,560.00
<input checked="" type="checkbox"/>	Small Entity Fees Apply (subtract ½ of above):	\$780.00
	TOTAL FEE:	\$780.00

A credit card payment form in the amount of \$780.00 is enclosed.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16, 1.17 and 41.20, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

Please direct all correspondence to the undersigned attorney or agent at the address indicated below.

Respectfully submitted,

Date 11/29/07

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5483
Facsimile: (202) 672-5399

By Dawn RT Ry. # 59,349

for Richard C. Peet
Attorney for Applicant
Registration No. 35,792